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JUN 04 2007

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In re Application of:
Michelson, Gary K.
Serial No. 09/497590
Filed: June 06, 2000
Docket: 101-0044-03000
Title: APPARATUS FOR INSERTING
SPINAL IMPLANTS

DECISION ON PETITION
UNDER 37 CFR § 1.144

This is a decision on the petition filed March 31, 2006 under 37 CFR § 1.144 requesting modification of the election requirement. Petitioner authorized a fee of \$130.00 be charged to Deposit Account No. 50-3726 under 37 CFR § 1.17(h) for handling of the petition.

The petition is dismissed.

The examiner construed the petition as a request for reconsideration and in finding petitioner's points of argument persuasive, granted applicant's requests in a non-final Office action mailed August 26, 2006. In view of the examiner's action, decision on the petition is moot and subject to dismissal.

There is no fee for a petition under 37 CFR § 1.144. Therefore, petitioner may request a refund under 37 CFR § 1.26 in a separate letter addressed to the USPTO as provided for under 37 CFR § 1.1(a). A copy of this decision should be attached to the letter. Questions regarding the refund may be directed to the Office of Finance at 571-272-6500.

PETITION DISMISSED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Karen M. Young
for
Frederick R. Schmidt, Director
Technology Center 3700